



final access conditions
Jeanne Briskin to: Natenna.Dobson

05/11/2012 03:20 PM

From: Jeanne Briskin/DC/USEPA/US
To: Natenna.Dobson@hq.doe.gov



Range revised access conditions 043012.doc

Conditions for access

1. EPA shall provide a description of all activity to be conducted at any Range site where voluntary access is requested for the purposes of EPA's hydraulic fracturing study, including a description of any sampling, testing or other analysis, including the method of sampling or analysis to be conducted (which shall be supplemented if the sampling or analysis changes). This information is reflected in EPA's Quality Assurance Project Plan (QAPP).
2. In allowing access for the purposes of EPA's hydraulic fracturing study, Range does not acknowledge the existence of any regulatory or statutory authority to compel such access. Range retains all rights to contest EPA's access to Range property for purposes other than carrying out EPA's hydraulic fracturing study.
3. EPA shall provide three days prior written or email notice to Range's designated representative before conducting any activity on Range property.
4. EPA will provide opportunities for Range to collect samples in conjunction with EPA's sampling events. The manner of collection of samples shall be in accordance with the relevant Quality Assurance Project Plans (QAPPs) and Quality Management Plans (QMPs) EPA has established for the purposes of its hydraulic fracturing study.
6. EPA employees, agents, contractors, representatives or experts visiting a Range site must be identified in advance and must adhere to all Range safety protocols and may be denied access to areas that, in the judgment of Range, Range determines may present safety issues. Range will escort any employee, agent, contractor, representative or expert at all times while they have access to Range's property. Range retains the right to temporarily or permanently deny any specific EPA employee, agent, contractor, representative or expert access to its property if Range reasonably determines that the acts and omissions of such employee, agent, contractor, representative or expert create a risk of harm to persons at or near the Range site.
7. EPA employees, agents, contractors, representatives or experts visiting a Range site will wear proper safety equipment, as determined by Range, at all times while on any Range site. Generally a hard hat, steel toed shoes, safety glasses and, possibly, hearing protection will be required. If additional safety equipment is required, Range will either (a) identify such equipment to EPA in advance of the planned visit with sufficient time for EPA to acquire appropriate equipment or (b) provide such additional safety equipment to EPA employees, agents, contractors, representatives or experts while such persons are on-site.
8. EPA shall provide Range with exact copies of all test reports, analyses and data within five (5) business days of EPA's completion of its quality assurance and quality control protocols on such reports, analyses or data. Where raw data suggest the presence of chemicals in exceedance of MCLs or other health-based standards, EPA shall endeavor to conduct an accelerated quality assurance and quality control protocol

and will release data to Range in accordance with this agreement after completion of any such accelerated quality assurance and control protocol.

9. Range shall provide EPA with exact copies of any QAPPs it intends to utilize for sampling and analysis and provide exact copies of all test reports, analyses and data within five (5) business days of its completion of its quality assurance and quality control protocols on such reports, analyses or data.

10. EPA will provide Range with an advance copy of any draft report utilizing data obtained from Range facilities or property thirty (30) days before expected publication of such report. During the prepublication period, Range agrees to keep confidential the contents and conclusions of any such report. Range will provide EPA with an advance copy of any draft report using data obtained from the samples taken in concert with EPA's samples (30) days before expected publication of such report. During the prepublication period, EPA agrees to keep confidential the contents and conclusions of any such report.

11. (a) Range may assert a claim of confidentiality for any proprietary information EPA may gain from access to Range sites in connection with the hydraulic fracturing study. Any such claim of confidentiality must be made at the time the information is provided to EPA and in accordance with the provisions of 40 CFR Part 2, Subpart B.

(b) EPA agrees to keep any such information confidential unless it determines either (a) that disclosure of such information is necessary to carry out the hydraulic fracturing study or (b) in response to a Freedom of Information Act (FOIA) request, that such material is not entitled to confidential treatment, in accordance with 40 CFR § 2.205.

(c) Range understands that the purpose of the study is to understand and inform the public of the impacts, if any, of hydraulic fracturing on drinking water resources.

(d) Range understands that samples and analysis of environmental media are not subject to claims of confidentiality.

(e) Range understands that EPA may disclose claimed confidential information to its authorized representatives, including contractors. Any such representative or contractor shall be required to keep such material confidential in accordance with the terms of this paragraph.

12. There will be no photographs, videotaping, recording or any visual or aural depiction or recording of any Range site including any equipment, personnel or activity on the site without Range's consent which shall not be unreasonably withheld. Range agrees it will only withhold consent to photographs, videotaping, recording or any visual or aural depiction or recording of the site to the extent necessary to comply with restrictions imposed by Range's contractors on photographs, videotaping, recording or any visual or aural depiction or recording of their tools, equipment or personnel and Range will use reasonable efforts (without any obligation to pay money) to request consent from any contractors who restrict photographs, videotaping, recording or any visual or aural depiction or recording to obtain permission for reasonable recording of activity. Range will be provided a copy of any such recordings.